

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:05CR173(5)
	§	(Judge Crone)
	§	
TOMMY DEBELL GRIFFIN	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 4, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by David Shapiro.

On September 21, 2001, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 78 months imprisonment followed by a five-year term of supervised release for the offense of Conspiracy to Possess with Intent to Distribute Cocaine Base and Marijuana. Defendant originally began his term of supervision on June 27, 2011. Following his revocation, the new term of supervised release began on October 12, 2012. On November 30, 2012, the case was reassigned to the Honorable Marcia A. Crone, United States District Judge.

On March 5, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 907). The Petition asserts that Defendant violated

the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (3) Defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.


The Petition alleges that Defendant committed the following violations: (1) On November 26, 29, 2012, and January 8, February 9, 2013, Defendant submitted urine specimens that tested positive for marijuana. Alere Laboratory confirmed said use; and (2) On January 8, 2013, Defendant denied using marijuana prior to submitting a urine specimen for testing. On January 23, 2013, Defendant admitted to "taking a drag of his cousin's marijuana joint on or about January 4, 2013" and failed to answer truthfully when questioned by the probation office.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 4, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with no supervised release to follow.

SIGNED this 6th day of May, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE